

AMENDED IN SENATE APRIL 5, 2001  
AMENDED IN ASSEMBLY MARCH 22, 2001  
AMENDED IN ASSEMBLY MARCH 19, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

## ASSEMBLY BILL

No. 66

**Introduced by Assembly Members ~~Keeley and Thomson~~**  
**(Coauthors: ~~Assembly Members Alquist, Bates, Correa,~~**  
**~~Nation, Robert Pacheco, and Pescetti~~) *Member Keeley***

February 20, 2001

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~~An act to add Article 2 (commencing with Section 81610) to Chapter 3 of Part 49 of the Education Code, and to add and repeal Chapter 13 (commencing with Section 4590) of Division 5 of Title 1 of the Government Code, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. An act to repeal and add Section 390 of the Public Utilities Code, relating to energy, and declaring the urgency thereof, to take effect immediately.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 66, as amended, Keeley. ~~Community colleges: energy efficiency~~ Energy.

*Existing law provides for a short-run avoided cost methodology for pricing electricity generated by a nonutility, small power production or cogeneration facility (QF), as defined.*

*This bill would repeal that law and instead require the Public Utilities Commission in accordance with specified federal law to establish the*

*price to be paid by a public utility electrical corporation for power sold and delivered by a QF.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~(1) Existing law generally permits public agencies to develop energy conservation, cogeneration, and alternative energy supply sources at their facilities in order to promote all feasible means of energy and water conservation. Existing law also generally requires public agencies to meet specified requirements regarding service, consulting, architectural, and engineering contracts, and requires those contracts to be approved by the Department of General Services.~~

~~This bill would enact, until January 1, 2002, the Summer 2001 Energy Efficiency Projects by Community College Districts program, which would fund the implementation of energy conservation, efficiency, cogeneration, and alternate energy supply sources by community college districts on public property. The bill would require a community college district to request proposals prior to awarding or entering into a contract, agreement, or lease, and would require the district to award each contract based on the consideration of specified qualifications. The bill would exempt energy projects, as defined, from specified requirements imposed on contracts entered into by public agencies. The bill would authorize the Director of General Services to exempt any energy project proposed by a community college district from existing advertising and competitive bidding requirements if the director deems the exemption necessary, as specified.~~

~~The bill would require each community college district that receives funds from the program to provide a report to the Chancellor of the California Community Colleges, on or before January 1, 2002, and would require the chancellor to report that information to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the appropriate policy and fiscal committees of each house of the Legislature, and the Governor by March 1, 2002.~~

~~By imposing additional duties on community college districts, this bill would impose a state-mandated local program.~~

~~(2) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges, and authorizes the provision of instruction by community college districts throughout the state. Existing law establishes the State Energy Resources Conservation and Development~~

~~Commission in the Resources Agency, and grants it authority with respect to various energy efficiency measures and programs.~~

~~This bill would establish the Statewide Energy Management Program to assist community college districts to achieve energy independence through the development of energy management plans, the construction of sustainable green buildings, the use of renewable or other distributed energy systems, and the expansion of statewide energy education programs and services, as prescribed. The bill would require the board of governors, in consultation with the commission, to develop guidelines for this program.~~

~~The bill would specify the responsibilities associated with the program. The bill would require the Chancellor of the California Community Colleges to establish an advisory committee to provide recommendations regarding overall program development, resource development and deployment, and strategies for implementation and coordination of the program.~~

~~(3) The bill would appropriate \$25,000,000 from the Proposition 98 Reversion Account, as specified to the State Controller for allocation for expenditure for the purposes of the bill, in accordance with a prescribed schedule.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~(5) The bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes no. Fiscal committee: yes. State-mandated local program: yes no.~~

*The people of the State of California do enact as follows:*

1     SECTION 1. ~~This act shall be known, and may be cited, as the~~  
2

1     SECTION 1. Section 390 of the Public Utilities Code is  
2     repealed.

3     390. ~~(a) Subject to applicable contractual terms, energy~~  
4     ~~prices paid to nonutility power generators by a public utility~~  
5     ~~electrical corporation based upon the commission's prescribed~~  
6     ~~"short run avoided cost energy methodology" shall be determined~~  
7     ~~as set forth in subdivisions (b) and (c).~~

8     ~~(b) Until the requirements of subdivision (c) have been~~  
9     ~~satisfied, short run avoided cost energy payments paid to~~  
10    ~~nonutility power generators by an electrical corporation shall be~~  
11    ~~based on a formula that reflects a starting energy price, adjusted~~  
12    ~~monthly to reflect changes in a starting gas index price in relation~~  
13    ~~to an average of current California natural gas border price indices.~~  
14    ~~The starting energy price shall be based on 12-month averages of~~  
15    ~~recent, pre-January 1, 1996, short-run avoided energy prices paid~~  
16    ~~by each public utility electrical corporation to nonutility power~~  
17    ~~generators. The starting gas index price shall be established as an~~  
18    ~~average of index gas prices for the same annual periods.~~

19    ~~(c) The short run avoided cost energy payments paid to~~  
20    ~~nonutility power generators by electrical corporations shall be~~  
21    ~~based on the clearing price paid by the independent Power~~  
22    ~~Exchange if (1) the commission has issued an order determining~~  
23    ~~that the independent Power Exchange is functioning properly for~~  
24    ~~the purposes of determining the short-run avoided cost energy~~  
25    ~~payments to be made to nonutility power generators, and either (2)~~  
26    ~~the fossil-fired generation units owned, directly or indirectly, by~~  
27    ~~the public utility electrical corporation are authorized to charge~~  
28    ~~market-based rates and the "going forward" costs of those units~~  
29    ~~are being recovered solely through the clearing prices paid by the~~  
30    ~~independent Power Exchange or from contracts with the~~  
31    ~~Independent System Operator, whether those contracts are~~  
32    ~~market-based or based on operating costs for particular~~  
33    ~~utility-owned powerplant units and at particular times when~~  
34    ~~reactive power/voltage support is not yet procurable at~~  
35    ~~market-based rates at locations where it is needed, and are not~~  
36    ~~being recovered directly or indirectly through any other source, or~~  
37    ~~(3) the public utility electrical corporation has divested 90 percent~~  
38    ~~of its gas-fired generation facilities that were operated to meet load~~  
39    ~~in 1994 and 1995. However, nonutility power generators subject~~  
40    ~~to this section may, upon appropriate notice to the public utility~~

1 ~~electrical corporation, exercise a one-time option to elect to~~  
2 ~~thereafter receive energy payments based upon the clearing price~~  
3 ~~from the independent Power Exchange.~~

4 ~~(d) If a nonutility power generator is being paid short-run~~  
5 ~~avoided costs energy payments by an electrical corporation by a~~  
6 ~~firm capacity contract, a forecast-as-available capacity contract, or~~  
7 ~~a forecast-as-delivered capacity contract on the basis of the~~  
8 ~~clearing price paid by the independent Power Exchange as~~  
9 ~~described in subdivision (c) above, the value of capacity in the~~  
10 ~~clearing price, if any, shall not be paid to the nonutility power~~  
11 ~~generator. The value of capacity in the clearing price, if any, equals~~  
12 ~~the difference between the market clearing customer demand bid~~  
13 ~~at the level of generation dispatched by the independent Power~~  
14 ~~Exchange and the highest supplier bid dispatched.~~

15 ~~(e) Short-run avoided energy cost payments made pursuant to~~  
16 ~~this section are in addition to contractually specified capacity~~  
17 ~~payments. Nothing in this section shall be construed to affect,~~  
18 ~~modify or amend the terms and conditions of existing nonutility~~  
19 ~~power generators' contracts with respect to the sale of energy or~~  
20 ~~capacity or otherwise.~~

21 ~~(f) Nothing in this section shall be construed to limit the level~~  
22 ~~of transition cost recovery provided to utilities under electric~~  
23 ~~industry restructuring policies established by the commission.~~

24 ~~(g) The term "going forward costs" shall include, but not be~~  
25 ~~limited to, all costs associated with fuel transportation and fuel~~  
26 ~~supply, administrative and general, and operation and~~  
27 ~~maintenance; provided that, for purposes of this section, the~~  
28 ~~following shall not be considered "going forward costs": (1)~~  
29 ~~commission-approved capital costs for capital additions to~~  
30 ~~fossil-fueled powerplants, provided that such additions are~~  
31 ~~necessary for the continued operation of the powerplants utilized~~  
32 ~~to meet load and such additions are not undertaken primarily to~~  
33 ~~expand, repower or enhance the efficiency of plant operations; or,~~  
34 ~~(2) commission-approved operating costs for particular~~  
35 ~~utility-owned powerplant units and at particular times when~~  
36 ~~reactive power/voltage support is not yet procurable at~~  
37 ~~market-based rates in locations where it is needed, provided that~~  
38 ~~the recovery shall end on December 31, 2001.~~

39 *SEC. 2. Section 390 is added to the Public Utilities Code, to*  
40 *read:*

1 390. (a) As used in this section, unless the context otherwise  
2 requires, the following terms have the following meanings:

3 (1) “QF” means a qualifying small power production facility  
4 or a qualifying cogeneration facility within the meaning of  
5 Sections 201 and 210 of Title II of the Public Utility Regulatory  
6 Policies Act of 1978 (16 U. S. C. Secs. 796( 17), (18) and 824a-3),  
7 including any amendments to that act, and the regulations adopted  
8 for those sections under that act by the Federal Energy Regulatory  
9 Commission.

10 (2) “Public Utility Regulatory Policies Act of 1978” means  
11 federal Public Law 95-617, including any amendments to that act.

12 (3) “PURPA” means the Public Utility Regulatory Policies Act  
13 of 1978 and the regulations adopted under that act by the Federal  
14 Energy Regulatory Commission.

15 (b) The commission shall establish the price to be paid by a  
16 public utility electrical corporation to a QF for power. The  
17 commission shall establish the price in accordance with PURPA.

18 SEC. 3. This act is an urgency statute necessary for the  
19 immediate preservation of the public peace, health, or safety  
20 within the meaning of Article IV of the Constitution and shall go  
21 into immediate effect. The facts constituting the necessity are:

22 To help avoid rolling blackouts in California, it is necessary that  
23 this act take effect immediately.

24  
25  
26 **All matter omitted in this version of the**  
27 **bill appears in the bill as amended in the**  
28 **Assembly, March 22, 2001 (JR 11)**  
29  
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